

# MINUTES - CITY OF BEAUMONT

W.L. Pate, Jr., At-Large  
Dr. Alan B. Coleman, Mayor Pro Tem  
Audwin Samuel, Ward III  
Tyrone E. Cooper, City Attorney

**BECKY AMES, MAYOR**  
CITY COUNCIL MEETING  
January 13, 2015  
Kyle Hayes, City Manager

Gethrel Wright, At-Large  
Michael D. Getz, Ward II  
William R. Sam, Sr. Ward IV  
Tina Broussard, City Clerk

The City Council of the City of Beaumont, Texas, met in a regular session on January 13, 2015, at the City Hall Council Chambers, 801 Main Street, Beaumont, Texas, at 1:30 p.m. to consider the following:

## OPENING

- \* Invocation                      Pledge of Allegiance                      Roll Call
- \* Presentations and Recognition
- \* Public Comment: Persons may speak on scheduled agenda item 3/Consent Agenda
- \* Consent Agenda

Mayor Ames called the council meeting to order at 1:30 p.m.

Bishop Curtis Guillory with the Catholic Dioceses gave the invocation. District Clerk Jamie Smith led the Pledge of Allegiance. Roll call was made by Tina Broussard, City Clerk.

Present at the meeting were Mayor Ames, Mayor Pro Tem Coleman, Councilmembers Getz, Wright, Pate and Samuel. Also present were Kyle Hayes, City Manager; Tyrone Cooper, City Attorney; Tina Broussard, City Clerk.

## SWEARING IN OF COUNCILMEMBER FOR WARD IV

- \* Administration of the oath of office
- \* Recess – **1:51 p.m.**

## RECONVENE MEETING – 2:09 P.M.

### Proclamations, Presentations, Recognitions

None

**Public Comment:** Persons may speak on scheduled agenda item 3/Consent Agenda.

None

## CONSENT AGENDA

- \* Approval of minutes – December 16, 2014
- \* Confirmation of committee appointments - **None**

- A) Authorize the City Manager to enter into a contract to purchase 2505 Sweetgum Lane under FEMA's Severe Repetitive Loss Grant Program – **Resolution 15 - 001**
- B) Approve the purchase of a sweeper from R. B. Everett & Company, Inc., of Houston for use by the Solid Waste Division – **Resolution 15 - 002**
- C) Authorize the City Manager to execute all documents necessary for an agreement between the City of Beaumont and Guardian Ambulance Service related to supplemental emergency medical service response – **Resolution 15 - 003**
- D) Approve the settlement of the lawsuit styled Russell Brister v. John Brown and City of Beaumont; Cause No. D-194,574 – **Resolution 15 - 004**

Councilmember Wright moved to approve the Consent Agenda. Councilmember Samuel seconded the motion.

**AYES: MAYOR AMES, MAYOR PRO TEM COLEMAN, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM**

**NAYS: NONE**

**MOTION PASSED**

## **GENERAL BUSINESS**

1. Consider a request for a zone change from R-S (Residential Single Family Dwelling) to C-M (Commercial - Manufacturing) District or a more restrictive zoning district and a specific use permit to allow sandblasting and coating.

Mr. Fontenot submitted a prior request for a rezoning and specific use permit to allow sand blasting at this location. On October 7, 2014, City Council denied the request, but indicated they would consider an application with a request for a rezoning of a reduced area. The Fontenots own approximately forty (40) acres at 7625 Washington Blvd., their original request was for ±21.51 acres, enclosed is a request for 2.13 acres.

The Fontenots purchased this property approximately fifteen (15) years ago and immediately opened for business. Staff has no record of permits pulled for this business. The property includes a barn, used for their sandblasting business, which is located in an area previously used for oil and gas drilling. Mr. Fontenot contends that this oil and gas drilling operation created a "dead zone" where vegetation no longer grows, making the land unsuitable for agricultural purposes. The proposed use employs two or three employees and operates from 8 AM to 4:30 PM, Monday through Friday. Sand blasting is considered similar to other metal working uses for the purposes of zoning.

While it is understandable that the rezoning of a smaller area would possibly reduce the negative effects from the sandblasting on the neighboring residential properties, the reduction in the area to be rezoned fits the definition of "spot zoning" to an even greater

extent. *Texas Municipal Law* defines "Spot Zoning" as, "A piecemeal zoning amendment that arbitrarily singles out a small tract for special treatment . . . Lots that are rezoned in a way that is substantially inconsistent with the zoning of the surrounding area, whether more or less restrictive, are likely to be invalid according to the Texas Supreme Court case, *City of Pharr v. Tippitt*<sup>1</sup>." Furthermore:

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<sup>1</sup>616 S.W.2d 173 (Tex. 1981), *rev'd* 600 S.W.2d 951 (Tex. Civ. App. Corpus Christi 1980).

1. The request is not in compliance with the comprehensive plan. The subject property is designated as a neighborhood growth unit.
2. The request is not consistent with the zoning or land use of the surrounding area, existing uses in the area are primarily residential. While it is unfortunate that the business is not allowable in this zone type, the zoning pattern is predominantly RS. In addition the surrounding land use is residential to the north, Crescent on Walden is located to the southeast and land to the west and northwest have been developed residentially.
3. Rezoning would not serve a public purpose furthering public health, safety, morals or general welfare.

At a Joint Public Hearing held December 15, 2014, the Planning Commission recommended 7:0 to deny a zone change from RS (Residential Single Family Dwelling) to C-M (Commercial - Manufacturing) District or a more restrictive zoning district with a specific use permit for a sandblasting shop at 7625 Washington Boulevard.

Denial of ordinance.

Councilmember Getz moved to approve **AN ORDINANCE ENTITLED AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, AND IN PARTICULAR THE BOUNDARIES OF THE ZONING DISTRICTS, AS INDICATED UPON THE ZONING MAP OF BEAUMONT, TEXAS, BY CHANGING THE ZONING OF PROPERTY PRESENTLY ZONED R-S (RESIDENTIAL SINGLE FAMILY DWELLING) DISTRICT TO C-M (COMMERCIAL-MANUFACTURING) DISTRICT FOR PROPERTY LOCATED AT 7625 WASHINGTON BOULEVARD, BEAUMONT, JEFFERSON COUNTY, TEXAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL AND PROVIDING A PENALTY.** Councilmember Wright seconded the motion.

**AYES: COUNCILMEMBERS GETZ, WRIGHT AND PATE**

**NAYS: MAYOR AMES, MAYOR PRO TEM COLEMAN, COUNCILMEMBERS SAMUEL AND SAM**

**MOTION FAILED – REQUEST DENIED**

**ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW SANDBLASTING AND COATING IN A C-M (COMMERCIAL-MANUFACTURING) DISTRICT AT 7625 WASHINGTON BOULEVARD IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.**

**ORDINANCE WAS NOT CONSIDERED**

2. Consider a request for a specific use permit to allow retail sales of beard grooming products in an RCR-H (Residential Conservation Revitalization – Historic) District.

Ryan Olson would like to conduct business as the Texas Beard Company at 2628 McFaddin Avenue. The property would be used as a storefront to market their own products, and products related to their brand. As a majority of their customers order online, packaging and shipping will be the primary activities at this location.

At a Joint Public Hearing held December 15, 2014, the Planning Commission recommended 7:0 to approve a specific use permit to allow retail sales of beard grooming products in an RCR-H (Residential Conservation Revitalization - Historic) District at 2628 McFaddin Avenue.

Approval of ordinance.

Mayor Pro Tem Coleman moved to **ADOPT AN ORDINANCE ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW RETAIL SALES OF BEARD GROOMING PRODUCTS IN AN RCR-H (RESIDENTIAL CONSERVATION AND REVITALIZATION-HISTORIC) DISTRICT AT 2628 MCFADDIN AVENUE IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.** Councilmember Pate seconded the motion.

**AYES: MAYOR AMES, MAYOR PRO TEM COLEMAN, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM**

**NAYS: NONE**

**MOTION PASSED**

**Ordinance 15 – 001**

3. Consider a resolution approving the purchase of thirty-one vehicles from Silsbee Ford for use by various City departments.

Replacement vehicles are requested through the City's budget process. The Fleet Manager reviews the requests and evaluates the vehicles to be replaced. Based on this evaluation, a recommendation is made to replace worn and obsolete vehicles that are no longer cost effective to operate. The vehicles to be purchased are replacing models ranging from 1991 to 2009. The newer vehicles may be reassigned by the Fleet

Division where appropriate. The older vehicles will be disposed of in accordance with the City's surplus equipment policy because age and mileage render them unfit for continued service.

Pricing was obtained through the Texas Association of School Boards (BuyBoard), a cooperative purchasing association providing cities and political subdivisions with the means to purchase specialized equipment at volume pricing. BuyBoard complies with State of Texas procurement statutes. The total purchase price includes the BuyBoard fee of \$400 which is paid to the vendor.

Warranties of 36,000 miles or three (3) years are provided for each new vehicle. Warranty service is provided by local authorized dealerships. Deliver is expected within sixty (60) to ninety (90) days.

Capital Reserve Fund, Water Utilities Fund, Hotel Occupancy Tax Fund, and Auto Theft Task Force Grant.

Approval of resolution.

Councilmember Pate moved to **APPROVE A RESOLUTION THAT THE CITY COUNCIL HEREBY APPROVES THE PURCHASE OF THIRTY-ONE (31) VEHICLES FOR USE BY VARIOUS CITY DEPARTMENTS FROM SILSBEE FORD, OF SILSBEE, TEXAS, IN THE AMOUNT OF \$657,898.94 THROUGH THE BUYBOARD COOPERATIVE PURCHASING PROGRAM.** Mayor Pro Tem Coleman seconded the motion.

**AYES: MAYOR AMES, MAYOR PRO TEM COLEMAN, COUNCILMEMBERS GETZ, WRIGHT, PATE, SAMUEL AND SAM**

**NAYS: NONE**

**MOTION PASSED**

**Resolution 15 – 005**

**Mayor Ames read the announcement regarding Executive Session being held at the conclusion of the General Business portion of the meeting.**

#### **COUNCILMEMBER COMMENTS**

**MAYOR PRO TEM COLEMAN -**

**WISHED EVERYONE A HAPPY NEW YEAR, WELCOMED COUNCILMEMBER SAM, CONGRATULATED HIS SON CHRIS AND WIFE ANNA ON THEIR NEW BABY, HER NAME WILL BE JANE KENNA COLEMAN**

<b>COUNCILMEMBER GETZ -</b>	<b>WELCOMED COUNCILMEMBER SAM, ANNOUNCED MOVIE NIGHT THAT TAKES PLACE EVERY FRIDAY NIGHT, ENCOURAGED EVERYONE TO COME OUT AND ENJOY, THE TICKETS ARE \$5.00 START TIME 7:00 P.M., LOOKING FORWARD TO HAVING AN ORGANIST FOUND THAT CAN WORK THE ORGAN AND HAVE A FEW ORGAN RECITALS</b>
<b>COUNCILMEMBER WRIGHT -</b>	<b>WISHED EVERYONE A HAPPY NEW YEAR, CONDOLENCES TO THE WILLIAM-SHEPPARD FAMILY AS WELL AS THE FAMILY OF DR. BETTYE RUTH SMITH, CONGRATULATED COUNCILMEMBER SAM</b>
<b>COUNCILMEMBER PATE -</b>	<b>GAVE CONDOLENCES TO THE WILLIAM-SHEPPARD, EARL BRICKHOUSE AND JUNE ROGERS FAMILIES ON THEIR PASSING, WELCOMED COUNCILMEMBER SAM, ENCOURAGED EVERYONE TO GET OUT AND SUPPORT THE MEN AND WOMEN'S BASKETBALL</b>
<b>COUNCILMEMBER SAMUEL -</b>	<b>CONGRATULATED COUNCILMEMBER SAM, STATED IT'S ANOTHER GREAT DAY IN BEAUMONT, HEARING ALL THE COMMENTS ABOUT THE LOSS IN MANY FAMILIES, WE NEED TO DO WHAT WE NEED TO DO TODAY TO MAKE IT BETTER</b>
<b>COUNCILMEMBER SAM -</b>	<b>THANKED EVERYONE FOR THE SUPPORT THAT HAS BEEN GIVEN, THANKFUL FOR THE OPPORTUNITY TO GIVE HIS SUPPORT TO THE CITY, ANNOUNCED THE NAACP PARADE THIS WEEKEND, OFFERED SYMPATHY TO THE FAMILY OF DR. BETTYE RUTH SMITH, INFORMED THE CITIZENS OF WARD IV THAT THERE IS STILL A LOT OF WORK TO DO AND THERE'S ROOM TO GROW, IT'S TIME TO GET TO WORK</b>
<b>MAYOR AMES -</b>	<b>NONE</b>
<b>CITY ATTORNEY COOPER -</b>	<b>NONE</b>
<b>CITY MANAGER HAYES -</b>	<b>NONE</b>

**Public Comments** (Persons are limited to three minutes)

**Jude Paradez**

**10620 Gage Rd.**

**Beaumont TX**

Stated that the zoning plan is supposed to be for the benefit of the citizens of Beaumont, so when the zoning plan hurts the citizens of Beaumont then the zoning plan needs to be changed, also stated that he heard the City Attorney advocating a position when his role is to interpret the law, if he has a personal interest in this he is supposed to disclose it and even recuse himself from the discussion, also stated that there was a taxidermist here in Beaumont that could take a deceased animal and make it look live again, those hands that could work small miracles has been prematurely stilled, that man would have like a few more good days in Beaumont, we will continue to pray for justice, announced that on January 19, 2015, from 10:00 a.m. to 2:00 p.m., the Church of Blessed Bread at 2915 San Jacinto will have a prayer for justice service, refreshments will be served and the public is invited

**Benny Gibson**

**7716 Tram Rd.**

**Beaumont TX**

Spoke concerning the electronic water meters, his meter cracked the City is now wanting to charge him for the cracked meter even though he had nothing to do with the meter cracking, wanted to know if this is the policy of the City

Open session of meeting recessed at 3:09 p.m.

**EXECUTIVE SESSION**

- \* Consider matters related to contemplated or pending litigation in accordance with Section 551.071 of the Government Code:

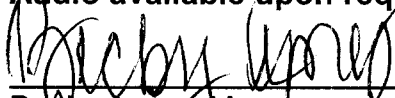
Claim of Voth Baptist Church

Claim of Dr. Arnold Manske


Captain David Kiker vs. City of Beaumont; Case No. 01-14-0000-2038

There being no action taken in Executive Session, Council adjourned.

**Audio available upon request in the City Clerk's Office.**



Becky Ames, Mayor



Tina Broussard, City Clerk

